

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY g D.C.
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THOMAS H. GOULD
CLERK U.S. DISTRICT COURT
W.D. OF TN, JACKSON

UNITED STATES OF AMERICA,)

Plaintiff,)

VS.)

No. 04-10010-T

VIRGIL GOODMAN, JR.,)

Defendant.)

ORDER GRANTING MOTION TO APPEAL *IN FORMA PAUPERIS*
AND
DENYING MOTION TO APPOINT COUNSEL

Defendant Virgil Goodman, Jr. was convicted by a jury of possessing methamphetamine with the intent to distribute and subsequently sentenced to 262 months imprisonment. Judgment was entered on July 1, 2005 and a notice of appeal was filed on July 8, 2005. The appeal was docketed in the Sixth Circuit Court of Appeals on July 20, 2005 as case #05-6113.

On July 28, 2005, the defendant, through retained counsel, filed a motion for permission to appeal *in forma pauperis* accompanied by an affidavit of indigency.¹ Based on the information contained in the defendant's financial affidavit, the Court finds that he

¹ The defendant was declared eligible for appointed counsel during his initial appearance in this Court on February 19, 2004 and the Office of the Federal Public Defender was appointed to represent him. However, the defendant subsequently retained counsel, and an order substituting counsel was entered on August 11, 2004.

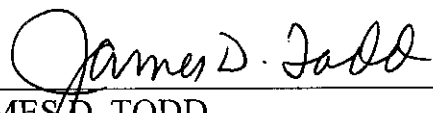
is indigent. Therefore, the motion for permission to appeal *in forma pauperis* is GRANTED.

Defendant has also filed a motion to appoint counsel under the Criminal Justice Act. The motion specifically requests that different counsel be appointed to represent the defendant on appeal. Sixth Circuit Rule 101 provides:

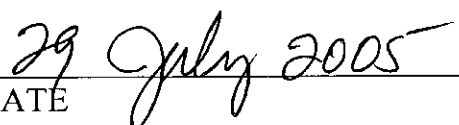
(a) Continued Representation of Appeal. Trial counsel in criminal cases, whether retained or appointed by the district court, is responsible for the continued representation of the client on appeal until specifically relieved by this Court.

By filing a motion to appoint different counsel on appeal, trial counsel is, in effect, seeking to withdraw from further representation in this case. Therefore, he must file a motion to withdraw in the Court of Appeals. If that motion is granted, the Court of Appeals will appoint new counsel. Accordingly, the motion to appoint counsel is DENIED.

IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE



DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 112 in case 1:04-CR-10010 was distributed by fax, mail, or direct printing on August 2, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT